IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.M.P.M. No. 612 of 2007.

Judgement reserved on: .

Date of decision: 3.9.2007.

Rishi Thakur ….. Applicant.

Vs.

State of H.P. …. Respondent.

Coram

The Hon'ble Mr. Justice Kuldip Singh, Judge.

Whether approved for reporting?[1]

For the applicant : Mr. Anup Chitkara, Advocate.

For the Respondent : Mr. M.L.Chauhan, Addl. Advocate General.

Kuldip Singh, Judge (oral).

This is an application, under Section 439, Cr.P.C., for releasing the applicant on bail, in case FIR No. 105/07, dated 12.7.2007, under Section 307, 34 IPC, registered at Police Station, Baddi. The brief facts are that on the basis of statement of Sham Lal recorded, under Section 154,Cr.P.C. on 11.7.2007, police registered FIR No. 105/07 on 11.7.2007. As per complainant Sham Lal, he works in the garment shop of his cousin in Baddi bazar. At about 9 p.m., he was sitting in the shop alongwith Parmod Kumar alias Manoj, driver Hasnain Ali. A Santro car bearing No. HP 12B-2031 stopped near his shop and four boys namely Rishi Kumar, Rajinder

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Whether the reporters of the local papers may be allowed to see the Judgment?

Kumar alias Gat and two more boys whom he recognizes by face came out from the car. Later on, he came to know the names of these two boys as Lalit Kumar and Sunil Kumar. All of them are residents of Baddi. The applicant Rishi Kumar was carrying gun in his hand and he pointed gun towards his shop and fired immediately after coming out of the car. All of them trespassed into his shop and inquired about Sonu. He told them that there was no person like Sonu at that place. On this, all four persons gave beatings to him and driver Hasnain Ali with kicks and fist blows and they were injured. The applicant Rishi Kumar fired towards him in order to kill him but fortunately bullet did not hit him. The applicant Rishi Kumar and others were under the influence of liquor. They threatened to kill the complainant etc. On hearing the gun fire, many persons gathered there and they snatched the gun from the hands of applicant Rishi as well as the car. In case the gun would not have been snatched from the hands of applicant Rishi, then it could lead to major calamity. Later on police came to the spot. On search of Santro car of the applicant, seven live cartridges of 12 bore gun were recovered. The gun of the applicant Rishi was checked on the spot and from its chamber, one fired cartridge was recovered. The other three applicants have been released on bail. S.D.M., Nalagarh has issued 12 bore gun licence in favour of applicant Rishi Kumar, but as yet, he has not handed over that licence to police.

2. Heard and perused the record. The learned counsel for the applicant has submitted that the applicant has been falsely implicated in the case. The other three accused have been released

on bail. He has submitted that no one was injured in the alleged fire from the gun of the applicant. He has submitted that in the facts and circumstances of the case applicant is entitled to bail. The learned Additional Advocate General has opposed the application. According to learned Additional Advocate General, applicant is the main accused. It has come in investigation that applicant fired at the complainant and gave beatings to him and Hasnain Ali, his companions also gave beatings. It is just by chance that the gun fire did not hit any person. On the spot seven live cartridges were recovered from the car of the applicant, even one fired cartridge was recovered from the chamber of the gun of the applicant. It has come on record that applicant has threatened the complainant etc. to kill them. He has not produced the gun licence, as per police.

3. In view of the seriousness of the offence and the fact that the applicant is the main accused in the commission of the offence, he is not entitled to indulgence of bail at this stage. Consequently, the application is dismissed.

4. Any observation made hereinabove shall not be construed as an expression of opinion over the merits of the case.

September 3, 2007. **(Kuldip Singh)**
(*Hem*) **Judge.**